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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,627	02/20/2004	Neal A. Bhadkamkar	345288016US	7205

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EXAMINER	
DUNN, MISHAWN N	
ART UNIT	**PAPER NUMBER**
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,627	BHADKAMKAR ET AL.	
	Examiner	Art Unit	
	MISHAWN DUNN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 9, filed 12/28/2007, with respect to the rejection(s) of claim(s) 1-14 under nonstatutory double patenting have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.

Terminal Disclaimer

2. The terminal disclaimer filed on 12/28/2007 disclaiming the terminal portion of any patent granted on this application has been reviewed and is accepted. The terminal disclaimer has been recorded.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 7-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,893,062. Although the conflicting claims are not identical, they are not patentably distinct from each other because: claims 1, 7-14 of instant case have similar scope and contents as of claims 1-5, of patent 5,893,062. It would have been obvious to change the language, which does not give any novelty over one another.

5. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,360,202. Although the conflicting claims are not identical, they are not patentably distinct from each other because: claims 1-14 of instant case have similar scope and contents as of claims 1-34, of patent 6,360,202. It would have been obvious to change the language, which does not give any novelty over one another.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-3, 8, and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper et al. (WO 96/12270).

8. Consider claim 1. Cooper et al. teaches, a method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps of: defining a correspondence between the original set of audio data and the original set of video data such that the original set of audio data and the original set of video data are synchronized (pg. 29, lines 6-9); creating a modified set of audio data that corresponds to the original set of audio set; establishing a correspondence between the modified set of audio data and the original set of video data; and creating a modified set of video data that corresponds to the original set of video data, based upon the modified set of video data, such that the modified set of video data is synchronized with the modified set of audio data (inherent in television program).

9. Consider claim 2. Cooper et al. teaches a method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in claim 1 wherein the step defining a correspondence between the original set of audio data and the original set of video data comprises the steps of a: dividing the original set of video data into a plurality of subunits, each representing a substantially equal duration of time; dividing the original set of audio data into a plurality of segments, each segment representing a duration of time that is approximately coincident with and substantially equal to the duration of time of a corresponding subunit of video data; and identifying corresponding subunits of video data and segments of audio data (pg. 35, lines 11-18).

10. Consider claim 3.Cooper et al. teaches a method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in claim 1 wherein establishing a correspondence between the modified set of audio data and the original set of video data is based upon the correspondence between the modified set of audio data and the original set of audio sat and the correspondence between the original set of audio data and the original set of video data (inherent in television program).

11. Consider claim 8. Cooper et al. teaches a method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in claim 1 wherein the step of creating a modified set of video data includes the step of eliminating data from the original set of video data (pg. 36, line 33).

12. Consider claim 12. Cooper et al. teaches a method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in claim 1, further comprising the steps of: generating an audio display from the modified set of audio data; and generating a video display from the modified set of video data (fig. 22).

13. Claims 13 and 14 are rejected using similar reasoning as the corresponding claim above.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al. (WO 96/12270) in view of Mauldin et al. (US Pat. No. 5,664,227).

16. Consider claim 4. Cooper et al. teaches all claimed limitations as stated above, except identifying one or more partial or complete subunits of the original set of video data that correspond to each of the audio segments of the modified set of audio data, based upon the correspondence between the modified set of audio data and the original set of video data; and modifying the subunits the original set of video data so that there is a one-to-one correspondence between audio segments of the modified set of audio data and subunits of video data of the modified set of video data.

However, Mauldin et al. teaches except identifying one or more partial or complete subunits of the original set of video data that correspond to each of the audio segments of the modified set of audio data, based upon the correspondence between the modified set of audio data and the original set of video data (pg. 35, lines 16-20); and modifying the subunits the original set of video data so that there is a one-to-one correspondence between audio segments of the modified set of audio data and subunits of video data of the modified set of video data (pg. 13, lines 14-30).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to analyze the video as well as the audio, as taught by Cooper, because detectable video events may signal significant segments as taught by Mauldin in column 6 lines 15-24.

17. Claims 5-7 are rejected using similar reasoning as the corresponding claim above.

18. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al. (WO 96/12270) in view of Haskell et al. (US Pat. No. 5,687,095).

19. Consider claim 9. Cooper et al. teaches all claimed limitations as stated above, except creating a modified set of video data includes the step of adding data to the original set of video data.

However, Haskell et al. teaches creating a modified set of video data includes the step of adding data to the original set of video data (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to compress the video track using Haskell's method to be the same size as the audio segment because this will synchronize the data.

20. Consider claim 10. Cooper et al. teaches all claimed limitations as stated above, except creating a modified set of video data includes the step of blending data from the original set of video data so that the modified set of video data has less data than the original set of video data.

However, Haskell et al. teaches creating a modified set of video data includes the step of blending data from the original set of video data so that the modified set of video data has less data than the original set of video data (col. 6, lines 65-67).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to compress the video track using Haskell's method to be the same size as the audio segment because this will synchronize the data.

21. Consider claim 11. Cooper et al. teaches all claimed limitations as stated above, except creating a modified set of video data includes the step of synthesizing data, based on the data in the original set of video data, so that the modified set of video data has more data than the original set of video data.

However, Haskell et al. teaches creating a modified set of video data includes the step of synthesizing data, based on the data in the original set of video data, so that the modified set of video data has more data than the original set of video data (col. 6, lines 65-67)

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to compress the video track using Haskell's method to be the same size as the audio segment because this will synchronize the data.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISHAWN DUNN whose telephone number is (571)272-7635. The examiner can normally be reached on Monday - Friday 7:30 aM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MISHAWN DUNN/
Examiner, Art Unit 2621
April 13, 2008

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621